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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,300	12/08/2003	Christopher C. Gaydos	45054.00.054	2179

7590 03/22/2005

John W. Harbst  
1180 Litchfield Lane  
Bartlett, IL 60103

EXAMINER
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JACKSON, ANDRE L

ART UNIT	PAPER NUMBER .
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3677

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/730,300

Applicant(s)

GAYDOS ET AL.

Examiner

Andre' L. Jackson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12-16 is/are objected to.
- 8) ☒ Claim(s) 17-26 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/15/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to a hinge structure, classified in class 403, 16 and 248, subclasses 157, 221 and 274.1 respectively.
- II. Claims 17-23, drawn to a hinge system, classified in class 16, subclass 355.
- III. Claims 24-26, drawn to a method of use, classified in class 105, subclass 377.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using, such as, a universal bracket mount, a folding hinge and an adjustable hinge assembly shown by the prior art.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with John Harbst (28,018) on February 24, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 17-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected inventions.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,435,462 to Hawes. Hawes discloses a hinge structure including a universal adapter (12) arranged in operable combination with the hinge structure (100, 10, 60), the adapter being configured to define multiple openings (18, 40, 40, 30) in spaced, generally parallel relation relative to each other.

As to claims 2-7, the multiple openings all define distinct axes and are vertically as well as laterally offset from one another with different opening dimensions. Although only one adapter is described in the preferred embodiment, Hawes discloses that a plurality of adapters may be used for mounting the hinge structure on a vehicle.

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b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 3,848,912 to Jensen et al. Jensen et al discloses a hinge structure (22) for pivotally securing a hatch cover (14) to a railway car, the hinge structure comprising;

a first end (40) configured for attachment to the hatch cover, and a universal adapter (32) arranged toward a second end of the hinge structure, the universal adapter defining multiple openings (44, 46, 57) disposed in space, generally parallel relation relative to each other whereby permitting pivotal attachment of the hinge structure and thereby the hatch cover to brackets (24, 28) on the railway car having hinge pins at locations relative to a coaming (12) of the railway car.

As to claims 9-11, the universal adapter defines a first and second axis corresponding to the first and second circular openings (46, 57) being vertically as well as laterally offset from one another.

#### ***Allowable Subject Matter***

Claims 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Additional references are cited on the PTO 892 form but were not used to determine patentability of this application instead the references gave background information on adjustable pivot hinge assemblies.

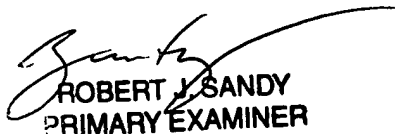
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner  
AU 3677

ALJ

  
ROBERT J. SANDY  
PRIMARY EXAMINER